UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,246	01/28/2004	Robert David Nielsen	2095.001200/P3162US1	4149

62293   7590   08/03/2010
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ART UNIT	PAPER NUMBER
2452	

MAIL DATE	DELIVERY MODE
08/03/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

1.   Applicant's arguments have been fully considered but are not persuasive.

2.   Applicant argues that the prior art does not teach assigning task without comparing operational capabilities of the remote systems. Examiner respectfully disagrees. Slater clearly indicates that the system that response the fastest to a same concurrent investigatory signal will be assigned the task (col. 1 l. 50-63). A better response time is an indication of a faster system. That does not mean that the load balancer compares the systems' performance to assign task. Applicant then argues that Slater measures response times of the systems. Slater discloses that telecom factors **far outweigh** operational capabilities of the systems when calculating response time, and the method is based on **a measure of telecommunications links**. Therefore, one skilled in the art appreciates that the operational capabilities are ignorable factor in measuring response time and response time can be an indication of the network connected to the systems alone. Thus, Slater does not compare operational capabilities of the systems to assign task, but do so by assigning to a first system that replies fastest to a signal. Applicant cited Slater's col. 11 l. 44-56 to assert that Slater does depend on operational capabilities in assigning tasks. The examiner did not rely on this portion of Slater, which clearly is another method of assigning tasks taught by Slater.

3.   Applicant argues that the prior art does not teach assigning tasks to "a remote system that responds first." The examiner relies on [page 18, second par.] of the specification to read a system that responds first as a system whose response is received first. Therefore, Slater meets the claim (col. 1 l. 50-63).

/H. H./

Examiner, Art Unit 2452

/THU NGUYEN/
Supervisory Patent Examiner, Art Unit 2452